



The conflict in Kashmir challenges Indian federalism

BY *GEORGE MATHEW*

India considers Kashmir to be a “jewel in its crown.” The State of Jammu and Kashmir has three distinct regions: Kashmir (population 5,441,341), Jammu (4,395,712) and Ladakh (232,864). Kashmir is a Muslim-dominated area, Jammu Hindu and Ladakh Buddhist.

When the State joined the Indian Union (see *box*) it had special status and more powers than the other states. In fact the Union (or federal) government only retained powers over three areas: defence, foreign affairs and communication. However, over the years all the provisions of the Indian Constitution were made applicable to the State. That had far reaching consequences leading to the rupturing of the emotional and psychological bond between Kashmir and the rest of India. The watershed was 1953. By then the right wing political formations had accelerated the demand for immediate and “full accession” of Jammu and Kashmir to India. There was growing mistrust between Kashmir’s political leadership and the central government in Delhi, which resulted in the dismissal from power and arrest of the state prime minister, Sheikh Abdullah on 9 August 1953.

This contributed to the rise of an armed insurgent movement in the State. As veteran Kashmir specialist Balraj Puri points out, “while extension of the jurisdiction of the Union autonomous institutions and several Central social welfare laws to the State provided some safeguards to the rights of its people, other measures directly increased the Centre’s hold on the State. But all these measures were viewed from the angle of autonomy versus integration”.

Today, for all practical purposes, Jammu and Kashmir has been co-opted into the

A Tumultuous History

Ever since the State’s accession to India in October 1947, Jammu and Kashmir has raised questions about its relations to and place in the Indian Union. These questions have had a bearing not only on the State’s ties with India but also on Indian federalism itself.

When both India and Pakistan were created by an Act of the British Parliament, the princely states were given the option to join either of the two. The sovereign decision of the king or prince as the head of the state was legal and irrevocable.

At that time the Maharaja (King) of Dogra dynasty was facing a popular struggle for democratic governance, social reforms and economic justice led by the political party, the National Conference, under the leadership of Sheikh Abdullah. Then, the Kashmir people’s struggle found a sense of commonality and solidarity with India’s independence movement led by Gandhi. Maharaja Hari Singh was, in effect, compelled to sign the Instrument of Accession to join the Indian Union on October 26th 1947, as he was unable to face the tribal attack sponsored by Pakistan. An interim government was immediately formed headed by the popular Sheikh Abdullah.

However, Pakistan’s claim has been that because the majority in the Kashmir Valley are Muslims, the region must naturally join Pakistan.

At the time Kashmir joined India, Sheikh Abdullah was seen essentially as a Kashmiri patriot who would have preferred independence, if it were feasible. Since the Dogra dynasty had oppressed the people, he saw the integration with India as the next best available option. But he never wanted subservience.

The Muslims in the Kashmir Valley have a distinct culture of their own, their own language and *sufi* tradition and customs, which they proudly call ‘Kashmiriyat’. They have nothing in common with the dominant Punjabi culture in the eastern part of Pakistan adjoining Kashmir.

After the partition of India in August 1947, there was a Pakistan supported attack on Kashmir through tribal infiltration in which regular forces from the Pakistan army also gradually got involved. The conflict was brought to the UN in January 1948 and a cease-fire came into effect on January 1st 1949. The UN observer team has since remained stationed in the area. The cease-fire line agreed upon, supervised by the UN observers, turned into the line of control and subsequently became the *de facto* border between India and Pakistan. A little more than a third of Jammu and Kashmir came under the control of Pakistan and is now more commonly known as *Azad* (Free) Kashmir – what India calls Pakistan Occupied Kashmir (POK). The Pakistan Government refers to the Indian State of Jammu and Kashmir as “Indian Occupied Kashmir.”

When the accession took place the Government of India said it was willing to allow the citizens of the State to decide its future. In a broadcast on November 2nd 1947, Prime Minister Jawaharlal Nehru said:

“We have declared that the fate of Kashmir is ultimately to be decided by the people. That pledge we have given not only to the people of Kashmir but to the world”.

However, in 1957 Prime Minister Nehru changed his position and stated that the accession of Kashmir to India had been decided once and for all.

What happened in that ten-year period (1947-57) radically changed Jammu and Kashmir’s status and its position in the Indian Union.

Indian Union and is treated like any other state. However, it remains the only state in India that has its own Constitution.

A conflict with a number of causes

Actions of the Union government apart, other factors account for the continuing conflict in the state. First, the elections to the Jammu and Kashmir Assembly have never been free and fair, except for the one held in 1977. The use of official machinery for vote rigging also contributed to the state's growing sense of disillusionment with and isolation from the Centre.

The second factor was rampant corruption. The Central government has been doling out large grants to the state but they have gone to line the pockets of the corrupt leaders, bureaucrats and middlemen. Very little goes to the intended beneficiaries.

Large-scale human rights violations have also created deep resentment among the people. The insurgency situation in the state took a toll of 12,771 civilian lives between 1990 and January 2002, according to official statistics. The security forces deployed by the Union government have violated human rights and have earned the deep distrust of the people. A large number of civilians have fallen victim to the excesses of the security forces, though reliable data is not available.

The fear among the Kashmiris about the loss of their cultural identity has also added to their sense of alienation and Pakistan has capitalized on this longstanding alienation of the Kashmiri people.

Many in India see four possible scenarios for the future of Jammu and Kashmir:

- The Muslim-dominated Kashmir Valley could join Pakistan, while the Jammu and Ladakh regions would remain with India.
- Kashmir could become independent.

- Jammu and Kashmir could go back to its pre-1953 status, in which it had greater autonomy.
- The status quo could continue and the line of control could be converted into an international border between India and Pakistan.

The last, given the stance of the current Indian government, is the most likely. But there could be another approach that might respond to the Kashmiri need to preserve its distinct identity and fortify Indian federalism as well.

Genuine democracy?

Civil society organizations, pro-federalism thinkers and practitioners are of the view that true and genuine democracy is the only answer to the Kashmir problem. Free and fair elections at the State and federal levels are a necessary condition. But more significantly, democracy and democratic values must percolate down the line. Village councils (Halqa Panchayats) hold the key.

If Jammu and Kashmir had a vibrant local self-government system, would the situation have been different? Everyone with whom this writer discussed this issue during a recent visit to the State was of the view that democratically elected local self-government would have made a lot of difference.

Deprivation and frustration are the main factors that draw the young and old towards the extremists' demands. With people-oriented developments and community participation, militancy could be contained considerably.

It is an open secret that Pakistan tried its best to subvert the recently held village council elections in Kashmir, for they didn't want the people of Kashmir to participate in any political activity in the Valley.

It must be said to the credit of the ruling National Conference that in the last five years it has brought some of the fragile State institutions back on the rails. The

fact that the State government could hold the 2001 Census operations successfully in spite of serious threats from the militants is no mean achievement. The Halqa Panchayat elections to the local democratic institutions took place with extraordinary enthusiasm of the people. This was a major political initiative and took some of the sting out of the militants.

In the light of the September 11 terrorist attacks in the US, and the subsequent international developments, the Kashmiris were hopeful that militancy would subside in the Valley. This has not happened.

Jammu and Kashmir is facing the painful reality of marginalization. Those at the helm of affairs in Delhi somehow refuse to recognise it. Kashmir and its multi-faceted problems are often misunderstood and misinterpreted, resulting in people's misery and their further alienation from the rest of India.

Vibrant democratic institutions and decentralization of power in a true federal spirit are the best way to arrest that alienation. The State government has to take a pro-active role to strengthen these instrumentalities. The Union government, while attempting to combat militancy and terrorism, should not spare any effort to seriously grapple with the basic issue of building confidence among the Kashmiri people.

The elections to the local bodies have shown that the spirit of Kashmiris cannot be undermined by militancy from within or from across the border. The next challenge is the State Assembly elections scheduled for September this year. Will the State and the Union governments succeed in bringing all shades of political formation under the democratic process? Will the governments take concrete steps to convince the people that this election will be free and fair? These are questions uppermost in the minds of all concerned with Kashmir and the well being of Kashmiris. ☺